



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

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April 30, 2001

Mr. Robert Springer, Director
Waste, Pesticides and Toxics Division
U.S. Environmental Protection Agency
77 West Jackson Blvd.
Chicago, IL 60604-3507

Subject: Closure of Sites Where Releases of Hazardous Waste Have Occurred.

Dear Mr. Springer:

Since last summer WDNR and U.S. EPA have been discussing various methods for improving our ability to cleanup sites where releases of hazardous waste have occurred. Based on the discussions we had here in Madison on March 9, 2001, we are following your suggestion and submitting a letter with a proposal for using our comprehensive cleanup rules to select remedies and close-out these type of sites. This letter includes background information along with our recommended approach for resolving this issue. We are also including a number of enclosures that should provide you with the supporting justification necessary to approval this proposal.

Background

The NR 600 series of the Wisconsin Administrative Code contains our state counterpart to the federal regulations under Subtitle C of RCRA. The NR 700 series of the Wisconsin Administrative Code contains our comprehensive clean-up rules which are applicable to all contaminated sites – including those regulated under RCRA Subtitle C. As currently written the NR 700 series allows the use of soil performance standards, including placement of barrier caps and selection of natural attenuation as remedies for site remediation and close-out. Selection of a soil performance standard requires a certain level of performance for a remedial action such that any contamination that exceeds applicable standards does not pose a threat to public health, safety, welfare or the environment. To qualify, the performance standard must be maintained permanently or until the applicable standard is achieved.

Selection of a soil performance standard as the appropriate remedy may also require the use of engineering or institutional controls. Institutional controls are tools utilized by the Department to require or prohibit certain actions by property owners or to give notice to prospective purchasers. For example, if contaminants exceeding direct contact Residual Contaminant Levels (RCL's)

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remain at a site but are not accessible due to placement of an engineered cover, using a deed restriction that prohibits removal of the cover or requires an assessment of the contaminated soil if it becomes accessible would be an acceptable approach under ch. NR 720.

With the exception of use of Natural Attenuation as a final remedy, the provisions discussed above were contained in the NR 700 series at the time Region V granted WDNR approval to utilize these rules for hazardous waste cleanup actions in a letter dated December 15, 1995. Chapter NR 726 now contains the specific requirements that responsible parties must meet in order to request case closure using natural attenuation as the selected remedy. WDNR has developed guidance on the use of natural attenuation for groundwater restoration and case closure, including detailed information for use at sites impacted by petroleum contamination. We are currently in the process of preparing technical guidance on the use of natural attenuation at sites contaminated by chlorinated compounds.

WDNR Request

We are requesting EPA's written concurrence with our continuing to fully utilize the NR 700 series and associated state guidance when selecting remedies and closing out sites with releases of hazardous waste. This includes the use of natural attenuation remedies. We believe that the December 15, 1995 letter from Norman Niedergang previously gave us that written concurrence with the possible exception of using natural attenuation remedies. After you and your staff have had an opportunity to review the enclosed material we would be available to discuss the proposal either in person or by conference call, if you feel that would be useful.

If you have any questions regarding this letter, please do not hesitate to contact Mark Gordon at (608) 266-7278.

Sincerely,

Mark F. Giesfeldt, P.E., Director
Bureau for Remediation and Redevelopment

Suzanne Bangert, Director
Bureau for Waste Management

c: Air and Waste Management Team
Waste Management Team
RR Management Team
Deb Johnson – LC/5
Mark McDermid – CE/8
Gerry Phillips – EPA Region 5

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Encl.

Ch. NR 140

Ch. NR 720

Ch. NR 726

12/15/95 Letter from Norm Niedergang

Natural Attenuation Guidance (Publication RR-614)

Soil Performance Standard Guidance (Publication RR-528)